IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

FRIDAY, THE 17TH NOVEMBER 2006 / 26TH KARTHIKA 1928

Crl.MC.No. 1015 of 2005()

CC.758/2004 of JUDL.MAGISTRATE OF FIRST CLASS, SASTHAMCOTTA

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PETITIONER: 2ND ACCUSED:

ASHA RADHAKRISHNAN, PUTHUPARAMBIL HOUSE,
MOORKULANGARA, VAZHAPPALLY VILLAGE,
CHANGANASSERY, NOW RESIDING AT MC DOWEL QUARTERS,
VARANAD P.O., CHERTHALA.

BY ADV. SRI.P.V.JAYACHANDRAN

RESPONDENTS: COMPLAINANT/1ST ACCUSED:

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1. T. RAJU, HIGH SCHOOL ASSISTANT
GOVERNMENT HIGH SCHOOL, PORUVAZHI.

2. T. KARUNAKARAN, KOLASSERITHARAYIL,
CHUNAKKARA P.O., ALAPPUZHA.

3. THE CIRCLE INSPECTOR OF POLICE,
POLICE STATION, SOORANAD, REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA.

R1 & R2 BY ADV. SRI.RASHEED C.NOORANAD
R3 PUBLIC PROSECUTOR SRI K.G. BHASKARAN.

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 17/11/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R. UDAYABHANU, J.

CRL.M.C.NO.1015 of 2005

DATED THIS THE 17TH DAY OF NOVEMBER 2006

ORDER

The petitioner who is the second accused in C.C.No.758/2004 in the file of the Judicial First Class Magistrate Court, Sasthamcottah with respect to the offence under Section 420 of the Indian Penal Code has sought for setting aside the proceedings alleging that the offence under Section 420 will not be attracted so far as the prosecution allegations are concerned. The case is that the first respondent/complainant stood as guarantor for the loan availed, for a sum of Rs.50,000/- by the petitioner and the second respondent from the Kerala State Financial Enterprises, Kollam. The loan was secured on the guarantee of the first respondent who submitted his salary certificate for the same. Subsequently, the petitioner and the 2nd respondent have defaulted payment and the Kerala State Financial Enterprises has initiated revenue recovery proceedings against the first respondent.

2. I find that the contentions of the petitioner herein cannot be countenanced and Annexure-A3 copy of the complaint contained specific recitals that it is after assuring the complainant that the

instalment will be regularly remitted that the complainant stood as guarantor and submitted salary certificate before the Kerala State Financial Enterprises. It appears that the offence under Section 420 is squarely attracted. I find that there is no merit in the contentions of the petitioner. The Crl.M.C.is dismissed.

K.R.UDAYABHANU, JUDGE

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